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£BANGLADESH: @HUMAN RIGHTS SAFEGUARDS

Amnesty International is urging the new government in Bangladesh¹ to give a high priority to the protection of human rights, and to implement a range of essential human rights safeguards. In January 1991, before the parliamentary elections were held, Amnesty International sent an open letter to the main political parties and alliances contesting the elections, urging them to make known their positions on human rights protection, and requesting that, should they come to power, they implement various human rights safeguards. In the letter, Amnesty International outlined its concerns in Bangladesh, and summarized the steps the organization would like to see taken to safeguard human rights.

Amnesty International is calling for the ratification of international human rights instruments and for an urgent review of existing powers of administrative detention, together with a review of the cases of prisoners currently detained under administrative detention laws. It also believes that the cases of prisoners convicted by martial law courts which breached international standards for fair trials should be independently reviewed. In addition, it is calling for safeguards to be introduced against torture and extrajudicial executions, for investigations to be held into reports of such violations and for those responsible to be brought to justice. Finally, Amnesty International is urging the government to abolish the death penalty.

In late December, Amnesty International had written to the then Acting President Shahabuddin Ahmed urging that the interim government take two initial steps to lay the foundation for future human rights protection. These were ratification of international human rights instruments and a review of existing powers of administrative detention. In reply, the Adviser on Foreign Affairs in the interim government, Fakhruddin Ahmed, said that the government was already reviewing the powers of administrative detention provided under the Special Powers Act of 1974, and that it is considering "the desirability or otherwise of retaining the Act itself". The Adviser also said that the government would soon consider the question of accession to or ratification of international human rights instruments. By the time of the election, however, neither step had been taken.

¹ President Hossain Mohammad Ershad resigned from office on 5 December 1990, following seven weeks of anti-government protests. An interim government was formed under Acting President Shahabuddin Ahmed, pending parliamentary elections on 27 February. The elections were won by the Bangladesh National Party, led by Begum Khaleda Zia.

Since sending the letter to parties contesting the elections, Amnesty International has learnt from a press report that the interim government in January granted the right to prisoners convicted by martial law courts or imprisoned under the Special Powers Act of 1974 to appeal to a higher court. Amnesty International does not yet have further details about these provisions, and hopes that they fulfil the recommendation Amnesty International made for the review of such cases.

The text of the letter sent to the main parties and to the press, summarizing the organization's concerns and recommendations, is reproduced below.

TEXT OF OPEN LETTER SENT TO THE MAIN POLITICAL PARTIES AND ALLIANCES CONTESTING THE PARLIAMENTARY ELECTIONS IN BANGLADESH

Amnesty International is writing to each of the main political parties or alliances contesting the parliamentary elections to urge you to make known your position on a fundamental aspect of government policy: the protection of human rights. The future protection of the human rights of all Bangladeshi people is a matter of urgent concern, and we shall be calling on the new government to give high priority to human rights in order to ensure that there is no recurrence of the abuses witnessed in Bangladesh in the past.

Amnesty International is a worldwide human rights organization which works on certain specific issues. It campaigns for the immediate and unconditional release of prisoners of conscience (that is, men and women detained for the expression of their conscientiously held beliefs or on grounds of their ethnic origin, sex, colour or language); for the prompt and fair trial of other political prisoners; and in all cases against the use of torture and other forms of ill-treatment of prisoners, the death penalty and extrajudicial executions.

Over the years, Amnesty International has repeatedly pressed for successive governments of Bangladesh to introduce reforms to halt continuing human rights violations and to remedy those which have been committed. We have campaigned against the summary trial of political prisoners by military courts; we have campaigned for a halt to the use of powers of administrative detention to imprison prisoners of conscience and to deny other political prisoners a fair trial; we have campaigned against the widespread torture of prisoners, both criminal and political; we have campaigned against extrajudicial execution and torture by security forces in the Chittagong Hill Tracts. We have also campaigned for the abolition of the death penalty, and for clemency to be granted to those whose execution was imminent.

Almost all the recommendations we made to the previous government remain to be implemented. We are now calling on the alliances and parties contesting the forthcoming election to make known the action they intend to take on assuming office to protect and safeguard human rights.

Ratification of International Human Rights Instruments

Amnesty International urges all governments to ratify international human rights instruments, including the International Covenant on Civil and Political Rights and its two Optional Protocols, the

International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. Bangladesh has ratified none of these. Ratification of these standards would demonstrate the government's resolve that human rights should be upheld and respected at all times and provide a firm basis in international human rights law for the protection of human rights. It would also ensure that each future national administration will be under an international obligation to guarantee specific and fundamental human rights, no matter who is in power.

Administrative Detention

Amnesty International has expressed concern to successive governments of Bangladesh about the broad powers of administrative detention currently available under the Special Powers Act (SPA) of 1974, and about their use to detain prisoners of conscience without charge or trial and to deny fair trial to other political prisoners, in contravention of internationally-recognized human rights standards. In some cases, prisoners have been formally charged with criminal offences apparently brought against them for political reasons and have at the same time also been served with detention orders under the SPA. The effect of this appears to be that even if they obtain bail in connection with the criminal charges, the release order may be ignored as they can still be kept in detention under the SPA.

We urge the new government to review as a matter of urgency the current legal provisions for administrative detention, particularly the broad powers for detention provided under the SPA. We also urge the new government to review the case of each prisoner currently detained under the SPA; to release immediately any prisoner detained for the non-violent expression of conscientiously-held beliefs; and to charge under normal criminal procedure any detainee against whom there is evidence of involvement in a recognizably criminal offence.

If powers of administrative detention are to be retained, the government should introduce strict limits on their use. In his report of 1990, the United Nations Special Rapporteur on Administrative Detention emphasized that administrative detention should only be used as an exceptional measure and should not be used to bypass the safeguards of the judicial framework. To protect against future abuse of administrative detention, the government should review the grounds on which administrative detention orders may be issued and formulate precise guidelines designed to ensure that an administrative procedure is not used to detain people who should not be imprisoned at all, who do not pose an extreme and immediate threat to national security, or who should be charged and tried according to normal criminal law. Such guidelines should explicitly prohibit administrative detention for the expression of non-violent political or other beliefs and for the peaceful exercise of the right to freedom of association. The government should also ensure that any administrative detainees are entitled to all the safeguards contained in internationally-recognized human rights standards, including the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by consensus by the United Nations General Assembly on 9 December 1988, and the International Covenant on Civil and Political Rights.

Review of Cases of Martial Law Convicts

An unknown number of prisoners remain imprisoned following their conviction by martial law courts on criminal charges, including some who may be political prisoners. When these courts were functioning between 1982 and 1986, Amnesty International expressed concern that they were being

used to try political prisoners by procedures which were unfair by the standards of international law. In order to ensure that no prisoner is wrongly jailed on the basis of politically motivated charges following an unfair trial, Amnesty International believes that the new government should institute an independent and impartial review of the cases of all martial law convicts, with the possibility of retrial by a court constituted according to international standards for fair trial.

Prevention of Torture

Numerous prisoners have suffered torture while in custody. Every year several deaths in custody are reported which apparently result from torture, and yet to date Amnesty International is not aware of a single case in which the government itself has initiated criminal proceedings against the alleged perpetrators. Amnesty International urges the new government to demonstrate from the outset its determination to halt torture. The government should ensure that wherever there are reasonable grounds to believe that an act of torture has been committed, and whenever complaints of torture are made, they are subject to thorough and impartial investigation with the results promptly made public. The government should also ensure that victims receive compensation and medical rehabilitation and that the perpetrators are brought to justice. The government must also insist that the existing legal safeguards against torture in the Code of Criminal Procedure are rigorously enforced, and the provisions of the UN Declaration against Torture are immediately implemented. It should also urgently consider the adoption of additional safeguards in accordance with internationally-recognized human rights standards such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment.

Extrajudicial Executions

The extrajudicial execution of non-combatant civilians in the Chittagong Hill Tracts, often in reprisal attacks by the armed forces following attacks on their members by the Shanti Bahini, has been of particular concern to Amnesty International. Compared to the situation in 1986, the number of such deliberate killings of civilians has declined in recent years, but they have not been halted altogether. Extrajudicial executions also appear to have been committed elsewhere in Bangladesh when security forces have opened fire on unarmed anti-government demonstrators, such as happened in Dhaka on 10 October 1990.

Amnesty International has repeatedly called upon the Government of Bangladesh to institute independent investigations into all alleged instances of extrajudicial execution and to make public the results of these investigations; to ensure that those responsible for extrajudicial executions are brought to justice; and to compensate the victims' relatives. Amnesty International urges the new Government of Bangladesh to implement fully the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, adopted by the United Nations Economic and Social Council on 24 May 1989.

Abolition of the Death Penalty

Amnesty International campaigns for the complete abolition of the death penalty, which it believes to be a cruel, inhuman and degrading punishment. Nowhere has it been shown that the death penalty has any special power to reduce crime or political violence.

In Bangladesh the death sentence continues to be passed, especially for murder. Amnesty International does not know how many people have been executed since 1986, when 25 people were hanged. One of those executed that year was Mohammad Selim, who was only 17 at the time he was hanged, after conviction by a martial law court (although the then government said he was older).

Amnesty International calls upon the new government to abolish the death penalty in Bangladesh, thereby joining a worldwide trend. In 1990 alone seven countries - the Czech and Slovak Federative Republic, Hungary, Mozambique, Namibia, Ireland, Andorra and Sao Tome & Principe - abolished the death penalty for all offences. In July 1990, Nepal abolished the death penalty for all but exceptional crimes (espionage and violent attacks on the royal family). To date, 44 countries have abolished the death penalty for all offences, while 17 have abolished it for all but exceptional crimes. Twenty-five countries can be considered abolitionist de facto: they retain the death penalty in law but have not carried out executions for the past ten years or more.

A movement towards abolition in Bangladesh would also be in accordance with the United Nations General Assembly Resolution of 8 December 1977 "that ... the main objective to be pursued in the field of capital punishment is that of progressively restricting the number of offences for which the death penalty may be imposed with a view to the desirability of abolishing this punishment...". As first steps towards abolition, we urge the new government immediately to commute the sentences of all prisoners currently under sentence of death, to reduce the range of offences which can be punished with death and to prohibit in law the execution of those aged under 18 years at the time the offence was committed.

Yours sincerely,

Ian Martin
Secretary General